

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JESSE VAN MYERS, §
Plaintiffs, §
§
v. § Civil Case 3:18-CV-1981-B-BK
§
SECRETARY UNITED STATES §
DEPARTMENT OF AGRICULTURE, §
Defendant. §

**ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

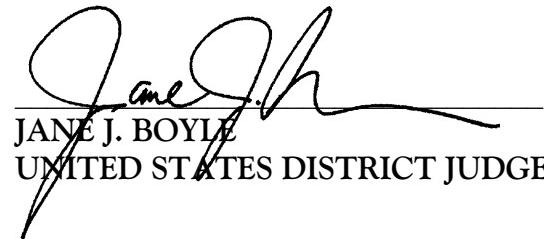
The United States Magistrate Judge made findings, conclusions and a recommendation in this case. No objections were filed. The District Court reviewed the proposed findings, conclusions and recommendation for plain error. Finding none, the Court **ACCEPTS** the Findings, Conclusions and Recommendation of the United States Magistrate Judge.

IT IS THEREFORE ORDERED that this action is **DISMISSED** without prejudice for failure to comply with a court order and for want of prosecution. *See* FED. R. CIV. P. 41(b).

The Court prospectively certifies that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24(a)(3). In support of this finding, the Court adopts and incorporates by reference the magistrate judge's findings, conclusions and recommendation. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the findings, the Court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit. *See*

Baugh, 117 F.3d at 202; FED. R. APP. P. 24(a)(5).¹

SO ORDERED this 30th day of October, 2018.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE

¹Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order. A timely notice of appeal must be filed even if the district court certifies an appeal as not taken in good faith.